

For Immediate Release

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Grassley seeks fair treatment with Medicaid dollars

Grassley amendment to economic recovery bill unravels bias in pending legislation

WASHINGTON --- Senator Chuck Grassley today took aim at unfair treatment in the so-called stimulus bill of Iowa, 33 other states and the District of Columbia, and called on senators to adopt his amendment to redistribute \$2.3 billion of the federal dollars set to go to states to enhance the federal government's share for Medicaid services.

Grassley cried foul against the formula bias last week and said today that the Senate has the opportunity to do the right thing with his amendment, which would give each state the same flat 9.5 percent increase in its FMAP (Federal Medical Assistance Percentage) payment and allow states to choose which nine consecutive quarters in an 11-quarter period best fits the economic needs of the state.

"Without my amendment, the legislation is unfair to states with lower unemployment rates and states that haven't seen the recession hit in full yet," Grassley said. "Whoever wrote the bill this way completely disregarded the tough situation caused by the economic crisis for our governor and state legislators in Iowa, and those in other states like Iowa. It's an abuse of power."

The pending legislation is so skewed to big states that Iowa's share of the additional funding would increase by more than 21 percent in the level playing field that would be established by the Grassley amendment.

Grassley's amendment would establish fair treatment for Alabama, Alaska, Arizona, Arkansas, DC, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin and Wyoming.

The attached letters from the Government Accountability Office estimate the increase in FMAP funding each state would receive based on the underlying bill and the impact of this Grassley amendment on state funding. The attached Excel spread sheet compares the two formulas. The GAO is the independent investigative arm of Congress.

Grassley is Ranking Member of the Senate Finance Committee, which is responsible for Medicaid policy. His amendment (#297) to redistribute the enhanced FMAP funding in H.R. 1, the Economic Recovery and Reinvestment Act of 2009 could come up at any time during floor debate in the Senate. The amendment text is at [http://ats.senate.gov/amd.asp?Amd\\_Nr=297](http://ats.senate.gov/amd.asp?Amd_Nr=297).

This amendment is just one of several filed by Grassley to fix flaws in the Medicaid provisions that are part of the overall proposal. In a lengthy floor statement delivered yesterday (and included below), Grassley said the bill fails to prevent states who take the extra federal

money from cutting their Medicaid programs, raising taxes, and raising tuition. He said the massive federal infusion of \$87 billion for Medicaid is “out of control” for not also requiring states to address fraud, waste and abuse and the fiscal sustainability of their Medicaid programs.

#### Summary of the FMAP formula issue

- The underlying legislation provides each state with an automatic 7.6 percent FMAP increase from the period beginning October 1, 2008, and ending December 31, 2010. A state would be held harmless from any decline in their regular FMAP (before including the automatic bonus) from FY 2008 through the first quarter of FY 2011.
- In addition, states would be eligible for unemployment-related bonuses as determined on a quarterly basis. The bonus would be based on a state’s quarterly unemployment rate as compared to its lowest 3-month period beginning on or after January 1, 2006. A state would receive a bonus of 2.5, 4.5, or 6.5 percent depending on the unemployment rate increase relative to this benchmark. However, if a state’s unemployment rate decreased after receiving one of these bonus levels, the state’s FMAP rate would not go down before July 1, 2010. After July 1, 2010, the Secretary of HHS has discretion to lower the bonus with a three month notice requirement.
- The Grassley amendment replaces the underlying Medicaid FMAP formula in the bill with a flat increase in the FMAP of 9.5 percent for every state. States can choose to begin to receive the nine consecutive quarters of aid on either October 1, 2008; Jan 1, 2009; or April 1, 2009 in order to better tailor receipt of aid to when the state most feels the effects of the recession.
- 34 states do better under the formula in the Grassley amendment.

Floor Remarks of U.S. Senator Chuck Grassley of Iowa  
Ranking Member of the Committee on Finance  
Medicaid Spending in the Economic Recovery and Reinvestment Act of 2009  
Wednesday, February 4, 2009

Mr. President, today I want to talk about one specific area of this cobbled together spending party the Senate is considering.

This bill provides significant increases in Medicaid spending. There’s \$ 87 billion in Medicaid funds in this bill. There’s a fundamental change to Medicaid that is in the House bill waiting to be put into the Senate bill when it goes to conference. There are numerous amendments to try to fix some of the problems with the Medicaid provisions in this bill, and I’m going to use this time to talk about as many of them as I can.

I’ll start with the \$87 billion FMAP increase in the bill. That’s a huge payment to the states.

Now, some will say the \$87 billion in Medicaid payments in this spending party bill is meant to help states pay for people already enrolled. But the facts tell a different story. In January, the Urban Institute produced a report for the Kaiser Commission on Medicaid and the Uninsured titled "Rising Unemployment, Medicaid, and the Uninsured." The Urban Institute's research asserts that for every one percent increase in nationwide unemployment, Medicaid and SCHIP programs will see an increase of 1 million additional beneficiaries nationwide.

So using that formula and the unemployment baseline that is in the bill, I had the Congressional Budget Office prepare a cost estimate for an amendment giving states additional funding based on the Urban Institute's publishing research. This amendment would provide for an additional per capita federal payment to states for every new enrollee that the Urban Institute research assumes will go on Medicaid or SCHIP during the 27 months contemplated in this bill.

Everyone watching probably knows that the Urban Institute is not exactly a conservative think tank. So their research should be credible to my friends on the other side of the aisle. Now remember, the cost of the additional Medicaid funds for states in this bill is \$87 billion. The cost of my amendment: \$10.8 billion. That's \$10.8 billion for what the Urban Institute suggests are enrollment-driven increases in Medicaid spending due to the recession.

So the question is, why does this bill provide almost eight times what the states actually need for the new enrollment resulting from the downturn? The Senate is considering \$87 billion in funding because states are facing deficits of as much as \$312 billion in the aggregate over the next two years. Let's not kid ourselves; this bill gives states money to help them fill their deficits. This outlandish sum of money is not needed for Medicaid.

So you may want to ask what commitment is Congress getting from the states in exchange for \$87 billion? Mr. President, Congress is giving states \$87 billion and hoping that states don't take actions that are contrary to Medicaid actually providing the care that people need. I use the word hope because the underlying bill doesn't do enough to make sure states do what is best for the Medicaid program.

Does the bill prevent states from cutting their Medicaid programs? It does not. The bill only prevents states from cutting Medicaid income eligibility. But if Congress is giving states \$87 billion and telling them not to cut Medicaid eligibility, shouldn't Congress also tell states they can't cut benefits?

If Congress is giving states \$87 billion and telling them not to cut Medicaid eligibility, shouldn't Congress also tell states they can't cut payments to providers? States can't change income eligibility, but under the bill as written, they can cut provider payments or benefits to

providers. Will there be Medicaid beneficiaries who are elderly or disabled able to receive home and community based services? If we want to keep seniors and the disabled in their homes, rather than institutions, paying direct care workers to provide home and community based services is critical. Will there be enough pharmacists taking Medicaid? Will there be enough rural hospitals or public hospitals taking Medicaid? Will there be enough community health centers taking Medicaid? Will Medicaid beneficiaries who are elderly or disabled be able to get into nursing homes? Will states cut mental health services because Congress didn't prevent them from doing so in this bill? Will there be pediatricians or children's hospitals there for children on Medicaid?

Mr. President, if the Senate does nothing to protect access to these vital providers, nobody will be able to assure the people who count on Medicaid that the care they need will be there for them. I have filed an amendment that prevents states from generally cutting eligibility and benefits and provider payment rates while they are receiving the \$87 billion in additional aid. If you want to protect Medicaid then really protect Medicaid. I hope we'll do that by adopting my amendment.

As written, the bill gives states \$87 billion also in the hope that states don't take actions that are contrary to economic growth. I use the word hope because the bill doesn't do enough to make sure states do what is best for our economy either.

We should ask for more guarantees that states will spend the money appropriately and not make decisions that work against economic recovery.

If Congress gives states \$87 billion and tells them not to cut Medicaid, should Congress also tell states not to raise taxes? If states react to their deficits by increasing taxes, they will defeat the goal of economic recovery. It makes no sense for us to leave the door wide open for states to raise taxes while getting an \$87 billion windfall from the federal government.

I have an amendment that prevents states from raising income, personal property or sales taxes as a condition of the receipt of \$87 billion in federal assistance. If Congress gives states \$87 billion and tells them not to cut Medicaid, should Congress also tell states not to raise tuition at state universities? If states can price young people out of an education, that does nothing for preparing our workforce for the 21<sup>st</sup> century.

I have an amendment that prevents states from raising tuition rates at state colleges and universities as a condition of the receipt of \$87 billion in federal assistance. For \$87 billion, shouldn't Congress expect states to modernize their Medicaid programs?

My friend, Dr. Coburn, has amendments requiring states to improve chronic care in Medicaid and develop medical homes as a condition of the receipt of \$87 billion in federal assistance for Medicaid. For \$87 billion, what does this bill do to ensure that all those federal taxpayer dollars are being spent appropriately? The answer is, almost nothing.

During the markup, we were able to get funding for the Department of Health and Human Services' Office of the Inspector General increased by \$31.25 million. For those of you doing the math at home, \$31.25 million is just under four one-hundredths of one percent of the \$87 billion in Medicaid spending in the bill.

Senator Cornyn and I have an amendment that requires states to do something to improve their waste, fraud and abuse in exchange for the \$87 billion in federal taxpayer's money. It provides a list of eight options to combat waste, fraud and abuse, and the Secretary can provide more options as well. States are given time to plan and implement the options. States can choose to make their payments transparent. States can choose to implement recovery audit contractors as is used in Medicare. States can choose to join the Medicare-Medicaid data matching program. States can implement third party liability programs that find other insurers who should pay before Medicaid. States can implement electronic verification systems to limit fraud and abuse. States can implement the recently passed PARIS system to protect the integrity of the program. States can comply with the recently implemented disproportionate share hospital audit requirement. States can choose to increase their budget for Medicaid Fraud Control Units. These are all very reasonable steps states could and should take if Congress is going to send them \$87 billion in additional Medicaid dollars. They don't have to do all of these various options, just four. Just show the American people that states can take four simple steps to reduce fraud, waste and abuse. Shouldn't Congress at least ask that much of states for \$87 billion?

Mr. President, if Congress is going to give states \$87 billion of Medicaid funds, shouldn't the formula be fair? While I admire the hard work devoted to the exceedingly complex formula in this bill, it simply is not fair to certain states. States with low unemployment rates; states that have not seen the recession hit in full yet. Those states will see less of the \$87 billion than other states. Senator Bingaman started down this road in the Finance Committee.

I have an amendment that picks up the baton and drives it the rest of the way home. Each state gets a flat 9.5 percent increase in its FMAP payment. And states can choose which nine consecutive quarters in an eleven quarter period best fits the economic needs of their state. That is a better, fairer way to spend \$87 billion.

Mr. President, if Congress passes all this Medicaid spending, what guarantee do we have that the fiscal challenges facing Medicaid in the future will be solved? Sooner rather than later, we must recognize that our entitlements are unsustainable as currently constructed. President Obama has acknowledged this himself on numerous occasions recently. One of my concerns about the additional Medicaid funding that is in this bill is that it places too much emphasis on Medicaid in the here and now and ignores future fiscal challenges. Just last year, the CMS Office of the Actuary reported that Medicaid costs will double over the next decade. That's simply unsustainable. It is critical that both the federal government and states recognize the fiscal challenges we face and take action now.

Senators Cornyn and Hatch and I have an amendment that requires states to submit a report to the Secretary detailing how they plan to address Medicaid sustainability. It is critical that we look at the future of Medicaid if Congress is to give states \$87 billion in addition Medicaid funding.

The House bill has a provision that fundamentally changes Medicaid. Medicaid is a program that is generally for low income pregnant women, children and low-income seniors. Under the House bill, the federal taxpayer would step in to pay the full cost to provide Medicaid coverage to people who lose their jobs and are not eligible for continuing coverage from their employer. Normally, Medicaid is supposed to be a shared state and federal responsibility with the states and the federal government sharing the cost roughly 57:43. But not in this new Medicaid program the House would create.

Under the House bill, the federal government for the first time ever would pick up 100 percent of the costs. The House bill transforms Medicaid into a coverage program for anyone who loses their job if they don't have access to COBRA coverage from their former employer. And the House bill would offer this taxpayer-paid Medicaid coverage regardless of how wealthy they might be. Medicaid would no longer just be for low-income people.

Mr. President, with all the fiscal challenges this country faces and with entitlement spending already out of control – this is really an outrage. I am sure folks on the other side of the aisle will come to the floor and defend the policy—even though it is not even in the Senate bill. My bigger concern is what happens in two years when the money goes away. What happens on December 31, 2010? What happens to all the people in states who have been covered by this massive expansion of the Medicaid entitlement? What happens to all the people who have been added to the rolls in states that expand coverage with the \$87 billion influx in this bill? Someone on the other side needs to convince me that this policy is truly temporary. I don't buy it. Every one of us knows the states will be coming back by the middle of next year to beg for an

extension so they don't have to cut their Medicaid rolls. There are too many former governors in this chamber for anyone to argue it is not going to happen.

I know a lot of people have worked very hard putting this bill together. I respect that they have worked hard. I wish they would have worked smarter. Giving states \$87 billion even though that is as much as eight times what they need to stay ahead of enrollment-driven Medicaid increases is not well thought out. Giving states \$87 billion while still allowing them to cut their Medicaid programs is not well thought out. Giving states \$87 billion while still allowing them to raise taxes or tuition is not well thought out. Giving states \$87 billion without requiring them to do a better job of addressing fraud, waste, and abuse is not well thought out. Giving states \$87 billion without making them address the fiscal sustainability of their Medicaid programs is not well thought out. A massive expansion of the entitlement under the guise of the word 'temporary' is not well thought out.

Mr. President, this bill is a cobbled together spending party. It is not well thought out. It's out of control.

The Senate should support the numerous amendments I have discussed today to address the shortcomings that occur when partisan bills are moved too quickly. I yield the floor.